IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 2205 of 2004

Shri Krishna Mahadeo Patil ..Petitioner

vs.

1. The State of Maharashtra
and others ..Respondents

Shri N.V.Bandiwadekar for petitioner.
Shri V.P.Malvankar, A.G.P. for respondent nos.1 to 3
Shri G.S.Hegade for respondent no.4.

CORAM: A.P.SHAH
& S.U.KAMDAR JJ.
26th August,2004

P.C.

1. Rule. Learned Counsel appearing for respaondents waive service.

2. By consent, rule is made returnable forthwith.

3. The petitioner owned and possessed agricultural lands at village Navaghar, Taluka Uran, District Raigad including land bearing R.S.No.366 Hissa No.1-D. The said land came to be acquired by respondent nos. 1 and 2 for the public purpose of Planned Development and Utilisation of Trans Harbour Panvel and Trans Creek area for industrial, commercial and residential purpose. The award came to be passed under sec.11 of the Land Acquisitison Act for the area 20 R. out of R.S.No.366 Hissa

No.1-D.

4. In August, 1987, a survey/measurement of the acquired land came to be conducted when it was revealed that the acquired land was in fact admeasuring 37.4 R and accordingly entry to that effect came to be recorded in Akar Phod Patra. The petitioner, therefore, requested respondent nos.2 and 3 to pay the compensation for excess land acquired to the extent sof 17.4 R. It appears that the second respondent called upon the petitioner to remain present in his office on 19th June, 1997 in relation to the enquiry to be conducted in respect of the grievance of the petitioner. Accordingly, the petitioner attended the enquiry. However, thereafter no steps were taken by the authorities despite several representations being made by the petitioner and hence the present petition.

5. On behalf of the respondents Raghunath Nathuram Jadhav, S.L.A.O. M.C.No.1, Uran has filed the filed counter affidavit. The respondents have fairly conceded that an excess area of 17.4 R from out of the petitioner’s land was acquired and compensation for the said area of 17.4 R has been wrongly awarded to one Namdev Patil. It is stated that steps are being taken for recovering back this amount from the said Namdev Patil.

6. In our opinion, the respondents are duty bound to make payment of compensation of excess land to the rightful owner i.e. the petitioner and it is not open to the respondents to postpone the payment on account of recovery proceedings started against Namdeo Patil to whom the amount has been wrongly paid. We direct the State Government to forthwith pay to the petitioner the amount of compensation for the excess area of 17.4 R with simple interest at the rate of 6% p.a. from the date of Award. This is without prejudice to the Government's right to recover back the amount from the said Namdeo Patil by adopting appropriate proceeding in accordance with law.

7. Rule is accordingly made absolute with no order as to costs.

8. Issuance of certified copy expedited.